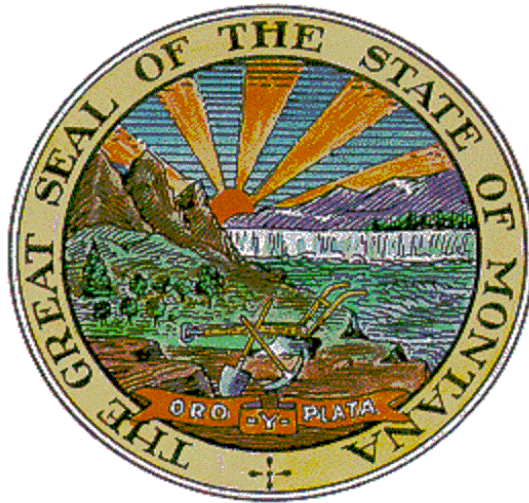


State of Montana
Department of Labor and Industry
Business Standards Division

BOARD SPECIFIC STATUTES RELATING TO PROFESSIONAL
ENGINEERS AND LAND SURVEYORS



ISSUED BY:

MONTANA STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND
SURVEYORS

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TITLE 2
CHAPTER 15
PART 17

2-15-1763. Board of professional engineers and professional land surveyors. (1)

There is a board of professional engineers and professional land surveyors.

(2) The board consists of nine members appointed by the governor with the consent of the senate. The members are:

(a) five professional engineers who have been engaged in the practice of engineering for at least 12 years and who have been in responsible charge of engineering teaching or important engineering work for at least 5 years and licensed in Montana for at least 5 years. No more than two of these members may be from the same branch of engineering.

(b) two professional and practicing land surveyors who have been engaged in the practice of land surveying for at least 12 years and who have been in responsible charge of land surveying or important land surveying work for at least 5 years and licensed in Montana for at least 5 years;

(c) two representatives of the public who are not engaged in or directly connected with the practice of engineering or land surveying. (3) Each member must be a citizen of the United States and a resident of this state. A member, after serving three consecutive terms, may not be reappointed.

(4) (a) Except as provided in subsection (4)(b), each member shall serve for a term of 4 years.

(b) The governor may remove a member for misconduct, incompetency, or neglect of duty or for any other sufficient cause and may shorten the term of one public member so that it is not coincident with the term of the other public member.

(5) The board is allocated to the department for administrative purposes only, as prescribed in 2-15-121.

History: (1) thru (4)En. Sec. 4, Ch. 150, L. 1957; amd. Sec. 2, Ch. 282, L. 1969; Sec. 66-2327, R.C.M. 1947; amd. and redes. 82A-1602.11 by Sec. 215, Ch. 350, L. 1974; amd. Sec. 1, Ch. 366, L. 1975; Sec. 82A-1602.11, R.C.M. 1947; (5)En. 82A-1602 by Sec. 1, Ch. 272, L. 1971; amd. Sec. 10, Ch. 250, L. 1973; amd. Sec. 1, Ch. 285, L. 1973; amd. Sec. 1, Ch. 57, L. 1974; amd. Sec. 1, Ch. 58, L. 1974; amd. Sec. 1, Ch. 84, L. 1974; amd. Sec. 1, Ch. 99, L. 1974; amd. Sec. 354, Ch. 350, L. 1974; Sec. 82A-1602, R.C.M. 1947; R.C.M. 1947, 82A-1602(part), 82A-1602.11; amd. Sec. 3, Ch. 408, L. 1979; amd. Sec. 21, Ch. 247, L. 1981; MCA 1979, 2-15-1653; redes. 2-15-1873 by Sec. 4, Ch. 274, L. 1981; amd. Sec. 1, Ch. 553, L. 1985; amd. Sec. 4, Ch. 492, L. 2001; Sec. 2-15-1873, MCA 1999; redes. 2-15-1763 by Sec. 221(2), Ch. 483, L. 2001.

Cross-References

Application of Montana Administrative Procedure Act to licensing, 2-4-631.

Disasters and emergencies -- emergency reciprocity for persons licensed out of state, 10-3-204.

General duties of boards, 37-1-131.

Licensure of former criminal offenders, Title 37, ch. 1, part 2.

Engineers and land surveyors, Title 37, ch. 67.

Nondiscrimination in licensing, 49-3-204.

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Part 1

General

37-67-101. Definitions. As used in this chapter, the following definitions apply:

(1) "Board" means the board of professional engineers and professional land surveyors provided for in 2-15-1763.

(2) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(3) "Engineer intern" means a person who complies with the requirements for education, experience, and character and has passed an examination in the fundamental engineering subjects, as provided in this chapter.

(4) "Engineering survey" means all survey activities required to support the sound conception, planning, design, construction, maintenance, operation, and association of engineering projects, but excludes the surveying of real property for the establishment of land boundaries, rights-of-way, easements, and the dependent or independent surveys or resurveys of the public land survey system.

(5) "Land surveyor intern" means a person who has qualified for, taken, and passed an examination on the basic disciplines of land surveying, as provided in this chapter.

(6) (a) "Practice of engineering" means:

(i) any service or creative work the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to the services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, planning the use of water, teaching of advanced engineering subjects, engineering surveys, and the inspection of construction for the purpose of ensuring compliance with drawings and specifications;

(ii) any of the functions described in subsection (6)(a)(i) that embrace the services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of mechanical, electrical, hydraulic, pneumatic, or thermal nature insofar as they involve safeguarding life, health, or property.

(b) The term includes other professional services necessary to the planning, progress, and completion of any engineering services.

(c) The term does not include the work ordinarily performed by persons who operate or maintain machinery or equipment, communication lines, signal circuits, electric powerlines, or pipelines.

(7) "Practice of land surveying" means any service or work, the performance of which requires the application of special knowledge of the principles of mathematics, physical sciences, applied sciences, and:

(a) the principles of property boundary law to the recovery and preservation of evidence pertaining to earlier land surveys;

(b) teaching of land surveying subjects;

(c) measurement and allocation of lines, angles, elevations, and coordinate systems;

(d) location of natural and constructed features in the air, on the surface of the earth, within underground workings, and on the beds of bodies of water, including work for the determination of areas and volumes;

(e) monumenting of property boundaries;

(f) platting and layout of lands and the subdivisions of land, including the alignment and grades of streets and roads in subdivisions;

(g) preparation and perpetuation of maps, plats, field note records, and property descriptions; and

(h) locating, relocating, establishing, reestablishing, laying out, or retracing of any property line or boundary of any tract of land or road, right-of-way, easement, right-of-way easement, alignment, or elevation of any of the fixed works embraced within the practice of engineering.

(8) "Professional engineer" means a person who, by reason of special knowledge and use of the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design acquired by engineering education and engineering experience, is qualified to practice engineering and who has been licensed as a professional engineer by the board.

(9) "Professional land surveyor" means a person who:

(a) has been licensed as a land surveyor by the board;

(b) is a professional specialist in the technique, analysis, and application of measuring land;

(c) is skilled and educated in the principles of mathematically related physical and applied sciences, relevant requirements of law for adequate evidence, and all requisites to the surveying of real property; and

(d) is engaged in the practice of land surveying.

(10) "Responsible charge" means direct charge and control and personal supervision either of engineering work or of land surveying. Only a professional engineer or a professional land surveyor may legally assume responsible charge under this chapter.

History: En. Sec. 2, Ch. 366, L. 1975; R.C.M. 1947, 66-2350(part); amd. Sec. 25, Ch. 22, L. 1979; amd. Sec. 3, Ch. 274, L. 1981; amd. Sec. 2, Ch. 553, L. 1985; amd. Sec. 1, Ch. 108, L. 1995; amd. Sec. 150, Ch. 483, L. 2001; amd. Sec. 49, Ch. 492, L. 2001.

37-67-102. Representation as practitioner to be considered as practice. (1) A person must be considered to practice or offer to practice engineering, within the meaning and intent of this chapter, who:

(a) practices any branch of the profession of engineering;

(b) by verbal claim, sign, advertisement, letterhead, card, or in any other way represents that the person is a professional engineer or through the use of some other title implies that the person is a professional engineer or is licensed under this chapter; or

(c) represents that the person is able to perform or does perform any engineering service or work or any other service designated by the practitioner that is recognized as engineering.

(2) A person must be considered to practice or offer to practice land surveying, within the meaning and intent of this chapter, who:

(a) engages in land surveying;

(b) by verbal claim, sign, letterhead, card, or in any other way represents that the person is a professional land surveyor or through the use of some other title implies that the person is a professional land surveyor; or

(c) represents that the person is able to perform or does perform any land surveying service or work or any other service designated by the practitioner that is recognized as land surveying.

History: En. 66-2369 by Sec. 17, Ch. 366, L. 1975; R.C.M. 1947, 66-2369; amd. Sec. 3, Ch. 553, L. 1985; amd. Sec. 50, Ch. 492, L. 2001.

37-67-103. Exemptions. The following are exempt from coverage under this chapter:

(1) the practice of any other legally recognized professions or trades;

(2) the mere execution of work by a contractor, as distinguished from its planning or design or the supervision of the construction of work as a lead supervisor or superintendent;

(3) the work of an employee or a subordinate of a person holding a license under this chapter or an employee of a person practicing lawfully under this chapter if the work does not include final engineering or land surveying designs or decisions and is done under the direct supervision of a person holding a license under this chapter or a person practicing lawfully under this chapter;

(4) the practice of professional engineering by licensed architects when the practice is purely incidental to their practice of architecture.

History: En. 66-2367 by Sec. 15, Ch. 366, L. 1975; R.C.M. 1947, 66-2367; amd. Sec. 4, Ch. 553, L. 1985; amd. Sec. 51, Ch. 492, L. 2001.

Part 2

Board of Professional Engineers and Professional Land Surveyors

Part Cross-References

Right to know, Art. II, sec. 9, Mont. Const.

Seal defined, 1-4-201.

Open meetings, Title 2, ch. 3, part 2.

Meeting defined, 2-3-202.

Allocation of boards for administrative purposes, 2-15-121.

Quasi-judicial boards, 2-15-124.

Board established, 2-15-1763.

Duties of Department, Director, and boards, Title 37, ch. 1, part 1.

37-67-201. Organization -- meetings -- seal. (1) The board shall hold at least two regular meetings each year. Special meetings must be held at the time that the rules of the board provide. Notice of all meetings must be given in the manner that the rules provide.

(2) The board shall elect annually the following officers: a presiding officer, a vice presiding officer, and a secretary.

(3) The board shall adopt an official seal.

History: (1) thru (3)En. Sec. 8, Ch. 150, L. 1957; Sec. 66-2331, R.C.M. 1947; redes. 66-2352 by Sec. 3, Ch. 366, L. 1975; amd. Sec. 1, Ch. 317, L. 1977; Sec. 66-2352, R.C.M. 1947; (4)En. Sec. 9, Ch. 150, L. 1957; amd. Sec. 3, Ch. 282, L. 1969; Sec. 66-2332, R.C.M. 1947; redes. 66-2353 by Sec. 3, Ch. 366, L. 1975; Sec. 66-2353, R.C.M. 1947; R.C.M. 1947, 66-2352, 66-2353(part); amd. Sec. 4, Ch. 408, L. 1979; amd. Sec. 52, Ch. 492, L. 2001.

Cross-References

Disrupting meeting as disorderly conduct, 45-8-101.

37-67-202. Rulemaking. The board may adopt rules, including rules of procedure, reasonably necessary for the proper performance of its duties and the regulation of the proceedings before it.

History: En. Sec. 9, Ch. 150, L. 1957; amd. Sec. 3, Ch. 282, L. 1969; Sec. 66-2332, R.C.M. 1947; redes. 66-2353 by Sec. 3, Ch. 366, L. 1975; R.C.M. 1947, 66-2353(part); amd. Sec. 121, Ch. 429, L. 1995.

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

Power of hearings officer to issue subpoenas, 2-4-611.

Allocation for administrative purposes only, 2-15-121.

Quasi-judicial boards, 2-15-124.

Subpoenas, Rule 45, M.R.Civ.P. (see Title 25, ch. 20); Title 26, ch. 2, part 1.

37-67-203. Compensation of board members -- expenses. Each member of the board shall receive compensation and travel expenses as provided for in 37-1-133.

History: En. Sec. 6, Ch. 150, L. 1957; Sec. 66-2329, R.C.M. 1947; amd. Sec. 40, Ch. 439, L. 1975; redes. 66-2351 by Sec. 3, Ch. 366, L. 1975; R.C.M. 1947, 66-2351; amd. Sec. 32, Ch. 474, L. 1981.

37-67-204. Record of proceedings -- register of applicants. (1) The department shall keep a record of its proceedings and a register of the board's proceedings.

(2) The department shall keep a register of applicants for licensure, which must show:

- (a) the name, age, and residence of each applicant;
- (b) the date of the application;
- (c) the place of business of the applicant;
- (d) the applicant's educational and other qualifications;
- (e) the branch or branches of engineering in which the applicant qualified;
- (f) whether an examination was required;
- (g) whether the applicant was rejected;
- (h) whether a license was granted;
- (i) the date of the action of the board; and
- (j) other information considered necessary by the board.

(3) The records of the department are prima facie evidence of the proceedings of the board, and a transcript of the proceedings, certified by the department, is admissible in evidence as if the original were produced.

History: En. Sec. 11, Ch. 150, L. 1957; Sec. 66-2334, R.C.M. 1947; amd. Sec. 27, Ch. 93, L. 1969; amd. Sec. 217, Ch. 350, L. 1974; redes. 66-2355 by Sec. 3, Ch. 366, L. 1975; R.C.M. 1947, 66-2355; amd. Sec. 53, Ch. 492, L. 2001.

Cross-References

- Public records, Title 2, ch. 6.
- Preservation of records, Title 22, ch. 3, part 2.
- Contents of writings, recordings, and photographs, Art. X, M.R.Ev. (see Title 26, ch. 10).
- Duty of Department to keep records, 37-1-101.

Part 3

Licensing

Part Cross-References

- Oath defined, 1-1-201.
- Proof of execution, Title 1, ch. 5, part 3.
- Power of notary to take acknowledgments, 1-5-416.
- Licensing to follow contested case procedure, 2-4-631.
- Recognition of out-of-state licenses during disaster or emergency, 10-3-204.
- Duty of Department to administer and grade examinations and to investigate unprofessional conduct, 37-1-101.
- Reporting disciplinary actions against licensees, 37-1-105.
- Duty of Board to adopt and enforce licensing and certification rules, 37-1-131.
- Licensing boards to establish fees commensurate with costs, 37-1-134.
- Licensing investigation and review -- record access, 37-1-135.
- Grounds for disciplinary action as grounds for license denial -- conditions to new licenses, 37-1-137.
- Licensure of criminal offenders, Title 37, ch. 1, part 2.
- Perjury, 45-7-201.
- False swearing, 45-7-202.
- Nondiscrimination in licensing, 49-3-204.

37-67-301. License required to practice or offer to practice. In order to safeguard life, health, and property and to promote the public welfare, a person in either a public or private capacity practicing or offering to practice engineering or land surveying is required to submit evidence that the person is qualified to practice and is licensed as provided in this chapter. It is unlawful for a person to practice or to offer to practice in this state engineering or land surveying or to use in connection with the person's name or otherwise assume, use, or advertise any title or description tending to convey the impression that the person is a professional engineer or a professional land surveyor unless the person has been licensed under the provisions of this chapter.

History: En. Sec. 1, Ch. 150, L. 1957; Sec. 66-2324, R.C.M. 1947; redes. 66-2349 by Sec. 3, Ch. 366, L. 1975; R.C.M. 1947, 66-2349; amd. Sec. 6, Ch. 553, L. 1985; amd. Sec. 54, Ch. 492, L. 2001.

37-67-302. Practice without a license a public nuisance. The practice of engineering or land surveying, as defined herein, without a license is hereby declared to be a public nuisance.

History: En. Sec. 9, Ch. 150, L. 1957; amd. Sec. 3, Ch. 282, L. 1969; Sec. 66-2332, R.C.M. 1947; redcs. 66-2353 by Sec. 3, Ch. 366, L. 1975; R.C.M. 1947, 66-2353(part).

Cross-References

Nuisances, Title 27, ch. 30.

37-67-303. Application -- contents -- fees. (1) Applications for licensure must be on forms prescribed by the board and furnished by the department, must contain statements made under oath showing the applicant's education and a detailed summary of the applicant's technical work, and must contain the required references.

(2) The application fee for an engineer intern is as prescribed by the board and must accompany the application. An additional fee is not required for the issuance of a certificate.

(3) The application fee for licensure as a professional engineer is as prescribed by the board for those holding an engineer intern certificate validated for Montana. For those holding a valid engineer intern certificate from some other state, the application fee is as prescribed by the board, which includes the cost of verification of engineer intern certification or licensure. Upon approval of an application for licensure and passage of the required examination as a professional engineer, the department shall issue a license as a professional engineer.

(4) The department, subject to approval by the board, may, on approval of the application and payment of an application fee as prescribed by the board, issue a license as a professional engineer to a person who holds a certificate of qualification or licensure issued to the person by the committee on national engineering certification of the national council of examiners for engineering and surveying or by a state, territory, or possession of the United States or by another country if the applicant's qualifications meet the requirements of this chapter and the rules of the board.

(5) The application fee for a land surveyor intern is as prescribed by the board and must accompany the application. An additional fee is not required for issuance of a certificate.

(6) The application fee for licensure as a professional land surveyor is as prescribed by the board for those holding a land surveyor intern certificate validated in Montana. For those holding a valid land surveyor intern certificate from some other state, the application fee is as prescribed by the board, which includes cost of verification of the certification. Upon approval of an application for licensure as a professional land surveyor and passage of the required examination, the department shall issue a license as a professional land surveyor.

(7) The application fee for licensure as both a professional engineer and professional land surveyor is as prescribed by the board for those holding engineer intern and land surveyor intern certificates validated in Montana. For those holding valid engineer intern and land surveyor intern certificates from another jurisdiction, the application fee is as prescribed by the board. The fee must accompany the application. Upon approval of an application for licensure as a professional engineer

and professional land surveyor and passage of the required examinations, the department shall issue a license.

(8) If the board denies the issuance of a license to any applicant, the initial fee deposited must be retained as an application fee.

History: En. Sec. 14, Ch. 150, L. 1957; Sec. 66-2337, R.C.M. 1947; amd. Sec. 5, Ch. 282, L. 1969; amd. Sec. 2, Ch. 364, L. 1971; amd. Sec. 219, Ch. 350, L. 1974; amd. Sec. 7, Ch. 215, L. 1975; redes. 66-2358 by Sec. 6, Ch. 366, L. 1975; amd. Sec. 21, Ch. 101, L. 1977; amd. Sec. 3, Ch. 317, L. 1977; R.C.M. 1947, 66-2358(1) thru (8); amd. Sec. 5, Ch. 408, L. 1979; amd. Sec. 66, Ch. 345, L. 1981; amd. Sec. 1, Ch. 489, L. 1981; amd. Sec. 7, Ch. 553, L. 1985; amd. Sec. 1, Ch. 72, L. 1987; amd. Sec. 2, Ch. 108, L. 1995; amd. Sec. 55, Ch. 492, L. 2001; amd. Sec. 13, Ch. 196, L. 2003.

Compiler's Comments

2003 Amendment: Chapter 196 in (2) at beginning of first sentence before "fee" inserted "application" and at end deleted "and must include the cost of one examination"; in (3) at end of second sentence deleted "and one examination" and in third sentence substituted "licensure and passage of the required examination as a professional engineer, the department shall issue" for "licensure as a professional engineer, an additional fee equal to the existing renewal fee must be paid before the issuance of"; in (4) near beginning before "fee" inserted "application" and after "board" deleted "and payment of an additional fee equal to the appropriate renewal fee"; in first sentence in (5) near beginning before "fee" inserted "application" and at end deleted "and must include the cost of one examination"; in (6) in third sentence near middle after "surveyor" substituted "and passage of the required examination, the department shall issue" for "an additional fee equal to the existing renewal fee must be paid before the issuance of"; in (7) at end of fourth sentence substituted "and passage of the required examinations, the department shall issue a license" for "an additional fee equal to the existing renewal fee must be paid before the issuance of a license"; and made minor changes in style. Amendment effective October 1, 2003.

37-67-304. Local government not to impose fee or examination. A license fee or examination may not be imposed by a local government on a person licensed under this chapter to practice engineering or land surveying.

History: En. Sec. 14, Ch. 150, L. 1957; Sec. 66-2337, R.C.M. 1947; amd. Sec. 5, Ch. 282, L. 1969; amd. Sec. 2, Ch. 364, L. 1971; amd. Sec. 219, Ch. 350, L. 1974; amd. Sec. 7, Ch. 215, L. 1975; redes. 66-2358 by Sec. 6, Ch. 366, L. 1975; amd. Sec. 21, Ch. 101, L. 1977; amd. Sec. 3, Ch. 317, L. 1977; R.C.M. 1947, 66-2358(9); amd. Sec. 3, Ch. 108, L. 1995; amd. Sec. 56, Ch. 492, L. 2001.

37-67-305. General qualifications of applicants for licensure as professional engineer or certification as engineer intern. To be eligible for admission to an examination for professional engineer or engineer intern, an applicant must be of good character and reputation. The applicant shall submit five references with the application for licensure as a professional engineer. Three references must be from professional engineers with personal knowledge of the applicant's engineering experience. In the case of an application for certification as an engineer intern, the applicant shall submit three character references.

History: En. 66-2357 by Sec. 5, Ch. 366, L. 1975; R.C.M. 1947, 66-2357(part); amd. Sec. 4, Ch. 108, L. 1995; amd. Sec. 57, Ch. 492, L. 2001.

37-67-306. Qualifications of applicant for licensure as professional engineer. The following is considered minimum evidence satisfactory to the board that the applicant is qualified for licensure as a professional engineer:

(1) A graduate of an engineering or engineering technology curriculum of 4 years or more approved by the board as being of satisfactory standing, with a specific record of an additional 4 years or more of progressive experience on engineering projects under the direct supervision of a professional engineer, unless exempt under 37-67-320(2), and who has passed examinations of a grade and character that indicate to the board that the applicant may be competent to practice engineering, must be admitted to an 8-hour written examination in the fundamentals of engineering and an 8-hour written examination in the principles and practices of engineering. Upon passing the examinations, the applicant must be granted a license to practice engineering in this state if the applicant is otherwise qualified.

(2) A graduate of a related science curriculum of 4 years or more, other than engineering or engineering technology, with a specific record of 8 years or more of progressive experience on engineering projects of a grade and character that indicate to the board that the applicant may be competent to practice engineering, may be admitted to an 8-hour written examination in the fundamentals of engineering and an 8-hour written examination in the principles and practices of engineering. Upon passing the examinations, the applicant must be granted a license to practice engineering in this state if the applicant is otherwise qualified.

(3) A graduate of an engineering or related science curriculum of 4 years or more, with a specific record of 20 years or more of progressive experience on engineering projects, of which at least 10 of those years the applicant has been in charge of important engineering projects, of a grade and character that indicate to the board that the applicant may be competent to practice engineering, must be admitted to an 8-hour written examination in the principles and practices of engineering. Upon passing the examination, the applicant must be granted a license to practice engineering in this state if the applicant is otherwise qualified.

(4) Teaching engineering in a college or university offering an approved engineering curriculum of 4 years or more may be considered as engineering experience in these requirements if research, product development, or consulting has been a concurrent activity.

(5) A person who holds a doctorate degree in engineering from an institution with an engineering program approved by the board and the engineering accreditation commission of the accreditation board for engineering and technology or the Canadian engineering accreditation board and who provides a specific record of at least 4 years of progressive experience on engineering projects of a grade and character that indicate to the board that the applicant may be competent to practice engineering must be admitted to an 8-hour written examination in the principles and practices of engineering. Upon passing the examination, the applicant must be issued a license to practice engineering in this state if the applicant is otherwise qualified.

History: En. 66-2357 by Sec. 5, Ch. 366, L. 1975; R.C.M. 1947, 66-2357(part); amd. Sec. 2, Ch. 59, L. 1985; amd. Sec. 1, Ch. 107, L. 1995; amd. Sec. 58, Ch. 492, L. 2001.

37-67-307. Qualifications of applicant for registration as engineer intern. The following must be considered as minimum evidence that the applicant is qualified for certification as an engineer intern:

(1) A graduate of an engineering or engineering technology curriculum of 4 years or more, approved by the board as being of satisfactory standing, must be admitted to an 8-hour written examination in the fundamentals of engineering. Upon passing the examination, the applicant must be certified or enrolled as an engineer intern if the applicant is otherwise qualified.

(2) A graduate of a related science curriculum of 4 years or more, other than engineering or engineering technology, with a specific record of 4 or more years of progressive experience on engineering projects of a grade and character satisfactory to the board must be admitted to an 8-hour written examination in the fundamentals of engineering. Upon passing the examination, the applicant must be certified or enrolled as an engineer intern if the applicant is otherwise qualified.

History: En. 66-2357 by Sec. 5, Ch. 366, L. 1975; R.C.M. 1947, 66-2357(1)(b); amd. Sec. 1, Ch. 59, L. 1985; amd. Sec. 5, Ch. 108, L. 1995.

37-67-308. General qualifications of applicants for licensure as professional land surveyor or certification as land surveyor intern. (1) To be eligible for admission to an examination for professional land surveyor or land surveyor intern, an applicant must be of good character and reputation. The applicant shall submit five references with the application for licensure as a professional land surveyor. Three of the references must be from professional land surveyors having personal knowledge of the applicant's land surveying experience. In the case of an application for certification as a land surveyor intern, the applicant shall submit three references, one of which must be from a professional land surveyor having personal knowledge of the applicant's land surveying experience.

(2) The evaluation of a land surveyor applicant's qualifications involves a consideration of the applicant's education, technical and land surveying experience, exhibits of land surveying projects that the applicant has been in charge of, recommendations by references, and a review of these categories. The board may require an interview if it considers one necessary.

History: En. 66-2357 by Sec. 5, Ch. 366, L. 1975; R.C.M. 1947, 66-2357(part); amd. Sec. 2, Ch. 489, L. 1981; amd. Sec. 1, Ch. 354, L. 1983; amd. Sec. 8, Ch. 553, L. 1985; amd. Sec. 2, Ch. 72, L. 1987; amd. Sec. 6, Ch. 108, L. 1995; amd. Sec. 59, Ch. 492, L. 2001.

37-67-309. Qualifications of applicant for licensure as professional land surveyor. One of the following must be considered as minimum evidence to the board that the applicant is qualified for licensure as a professional land surveyor:

(1) The applicant has a bachelor of science degree in a board-approved curriculum that includes a minimum of 40 quarter credit hours in surveying techniques, principles, and practices; the applicant presents evidence satisfactory to the board that, in addition, the applicant has had at least 4 years of combined office and field experience in land surveying, with a minimum of 3 years of progressive experience on land surveying projects under the direct supervision of a professional land surveyor; and the applicant has passed the examinations required by the board.

(2) The applicant has 2 years of formal education in a board-approved curriculum above high school level, with at least 90 quarter credit hours that include a minimum of 40 quarter credit hours in surveying techniques, principles, and practices, or equivalent semester hours passed, or the equivalent approved by the board; the applicant presents evidence satisfactory to the board that, in addition, the applicant has had at least 6 years of combined office and field experience in land surveying satisfactory to the board, with a minimum of 4 years of progressive experience on land surveying projects under the direct supervision of a professional land surveyor; and the applicant has passed the examinations required by the board.

(3) The applicant has a bachelor of science degree in a board-approved curriculum and presents evidence satisfactory to the board that, in addition, the applicant has had at least 6 years of combined office and field experience in land surveying, with a minimum of 4 years of progressive experience on land surveying projects under the direct supervision of a professional land surveyor, and the applicant has passed the examinations required by the board.

(4) The applicant presents evidence satisfactory to the board that the applicant has had at least 10 years of combined office and field experience in land surveying satisfactory to the board, with a minimum of 6 years of progressive experience on land surveying projects under the direct supervision of a professional land surveyor, and has passed the examinations required by the board.

History: En. 66-2357 by Sec. 5, Ch. 366, L. 1975; R.C.M. 1947, 66-2357(part); amd. Sec. 2, Ch. 354, L. 1983; amd. Sec. 9, Ch. 553, L. 1985; amd. Sec. 3, Ch. 72, L. 1987; amd. Sec. 60, Ch. 492, L. 2001.

37-67-310. Qualifications of applicant for certification as land surveyor intern. To qualify for certification as a land surveyor intern, an applicant shall present as evidence to the board at least one of the following:

(1) a bachelor of science degree in a board-approved curriculum that includes a minimum of 27 semester or 40 quarter credit hours in surveying techniques, principles, and practices and evidence of having passed the written examinations required by the board;

(2) at least 2 years of formal education in an approved curriculum that includes a minimum of 27 semester or 40 quarter credit hours in surveying techniques, principles, and practices, above high school level, with at least 60 semester or 90 quarter credit hours or equivalent semester hours passed, or the equivalent approved by the board, and evidence of having passed the written examinations required by the board;

(3) a bachelor of science degree in a board-approved curriculum and evidence satisfactory to the board that, in addition, the applicant has had at least 2 years of combined office and field experience in land surveying, with a minimum of 1 year in charge of land surveying projects under the supervision of a professional land surveyor, and evidence of having passed the written examinations required by the board; or

(4) evidence satisfactory to the board that the applicant has had at least 6 years of combined office and field experience in land surveying, with a minimum of 4 years of experience in charge of land surveying projects under the supervision of a professional land surveyor, and evidence of having passed the examinations required by the board.

History: En. 66-2357 by Sec. 5, Ch. 366, L. 1975; R.C.M. 1947, 66-2357(2)(b); amd. Sec. 3, Ch. 354, L. 1983; amd. Sec. 10, Ch. 553, L. 1985; amd. Sec. 4, Ch. 72, L. 1987; amd. Sec. 7, Ch. 108, L. 1995; amd. Sec. 61, Ch. 492, L. 2001.

37-67-311. Examinations -- fees -- third-party services. Examination requirements are as follows:

(1) The examinations must be held at times and places that the board directs. The board shall determine the acceptable grade on examinations.

(2) The board shall determine by rule the fees to be charged an applicant for each examination and reexamination. The fees must be commensurate with costs.

(3) The board may use a third party to provide examination and grading services.

(4) Examinations may be taken only after the applicant has met the other minimum requirements as provided in 37-67-305 through 37-67-310 and has been approved by the board for admission to the examinations as follows:

(a) The examination on engineering fundamentals consists of an 8-hour examination. Passing the examination qualifies the examinee for an engineer intern certificate if the examinee has met all other requirements for certification required by this chapter.

(b) The examination on principles and practice of engineering consists of an 8-hour examination on applied engineering. Passing this examination qualifies the examinee for licensure as a professional engineer if the examinee has met the other requirements for licensure required by this chapter.

(c) The examinations for land surveyor intern consist of two 4-hour examinations, designated as parts I and II, on the basic disciplines of land surveying. Passing these examinations qualifies the examinee for a land surveyor intern certificate if the examinee has met all other requirements for certification required by this chapter.

(d) The requirements and examinations for professional land surveyor consist of being a land surveyor intern, two examinations, designated as parts III and IV, on the applied disciplines of land surveying, and an examination specifically related to land surveying in Montana. Passing these examinations qualifies the examinee for licensure as a professional land surveyor if the examinee has met the other requirements for licensure required by this chapter.

History: En. 66-2359 by Sec. 7, Ch. 366, L. 1975; R.C.M. 1947, 66-2359; amd. Sec. 11, Ch. 553, L. 1985; amd. Sec. 8, Ch. 108, L. 1995; amd. Sec. 62, Ch. 492, L. 2001; amd. Sec. 14, Ch. 196, L. 2003.

Compiler's Comments

2003 Amendment: Chapter 196 inserted (2) concerning fees for examination and reexamination; inserted (3) concerning third-party examination and grading services; in (4) at beginning deleted "Written"; deleted former (3) and (4) that read: "(3) A candidate failing one examination may apply for reexamination, which may be granted upon payment of a fee established by the board. Before readmission to the examination in the event of a second failure, the examinee shall wait 1 year before a third examination.

(4) A candidate failing three examinations may not be allowed readmission to the examination. The candidate may apply for a special circumstance waiver from the

board to be readmitted to the examination"; and made minor changes in style. Amendment effective October 1, 2003.

37-67-312. Licensure of professional engineers without examination by comity or endorsement. (1) A person holding a certificate of registration to engage in the practice of engineering issued to the person by a proper authority of a state, territory, or possession of the United States, the District of Columbia, or any foreign country, based on requirements that do not conflict with the provisions of this chapter and that were of a standard not lower than that specified in the applicable registration act in effect in this state at the time the certificate was issued, may upon application be licensed without further examination.

(2) A person holding a certificate of qualification issued by the committee on national engineering certification of the national council of examiners for engineering and surveying and whose qualifications meet the requirements of this chapter may upon application be licensed without further examination.

History: En. 66-2357 by Sec. 5, Ch. 366, L. 1975; R.C.M. 1947, 66-2357(1)(a)(i); amd. Sec. 9, Ch. 108, L. 1995; amd. Sec. 63, Ch. 492, L. 2001.

Cross-References

Recognition of out-of-state licenses during disaster or emergency, 10-3-204.

37-67-313. Comity consideration for land surveyors from other states. A person holding a certificate of registration to engage in the practice of land surveying issued by a proper authority of a state, territory, or possession of the United States or the District of Columbia, based on requirements that do not conflict with the provisions of this chapter and that were of a standard not lower than that specified in the applicable registration act in effect in this state at the time the certificate was issued, will be given comity consideration. However, the person may be asked to meet the conditions for taking examinations and to take them as the board considers necessary to determine the person's qualifications. In any event, the person shall pass a written examination that includes questions on laws, procedures, and practices pertaining to the practice of land surveying in this state.

History: En. 66-2357 by Sec. 5, Ch. 366, L. 1975; R.C.M. 1947, 66-2357(2)(a)(iii); amd. Sec. 12, Ch. 553, L. 1985; amd. Sec. 10, Ch. 108, L. 1995.

Cross-References

Recognition of out-of-state licenses during disaster or emergency, 10-3-204.

37-67-314. Issuance of licenses -- seal of professional engineer or professional land surveyor -- enrollment card for interns. (1) The department shall issue to an applicant who, in the opinion of the board, has met the requirements of this chapter a license giving the licensee proper authority to engage in the practice of engineering or the practice of land surveying and to assume responsible charge of engineering or land surveying projects in this state. The license for a professional engineer must carry the designation "professional engineer" and for a professional land surveyor, "professional land surveyor". It must give the full name and serial number of the licensee and must be signed by the presiding officer and the secretary under the seal of the board.

(2) A license is prima facie evidence that the named person is entitled to all rights, privileges, and responsibilities of a professional engineer or professional land surveyor while the license remains unrevoked or unexpired.

(3) Each licensee may, upon licensure, obtain a seal of a design authorized by the board, bearing the licensee's name, serial number, and the legend "professional engineer" or "professional land surveyor". Plans, specifications, plats, drawings, reports, design information, and calculations prepared by a licensee must be signed with a written signature, dated, and stamped with the seal or a seal facsimile when issued. After the expiration of a license, it is unlawful for the licensee whose license has lapsed to affix or permit the seal and signature or seal facsimile to be affixed to any:

- (a) plans, specifications, plats, drawings, reports, design information, or calculations; or
- (b) projects for which the licensee was not in responsible charge.

(4) The department shall issue to any applicant who, in the opinion of the board, has met the requirements of this chapter an enrollment card as an engineer intern or land surveyor intern. The enrollment card must indicate that the applicant's name and status has been recorded with the board. The enrollment card does not authorize the holder to practice as a professional engineer or professional land surveyor.

History: En. 66-2360 by Sec. 8, Ch. 366, L. 1975; R.C.M. 1947, 66-2360; amd. Sec. 13, Ch. 553, L. 1985; amd. Sec. 11, Ch. 108, L. 1995; amd. Sec. 64, Ch. 492, L. 2001.

Cross-References

Seal defined, 1-4-201.

Manner of making seal, 1-4-202.

37-67-315. Biennial renewal -- fee -- statement of competency. (1) Licenses expire every second year on the date established by rule of the department and become invalid on that date unless renewed. The department shall notify each person licensed under this chapter of the date of the expiration of the person's license and the amount of the fee required for its renewal for 2 years. This notice must be mailed at least 1 month in advance of the date of the expiration of the license. Renewal may be made prior to the expiration date by the payment of a fee as set by the board for either a professional engineer or a professional land surveyor. For renewal of a dual license as both a professional engineer and a professional land surveyor, the fee must be set by the board.

(2) Subject to subsection (5), a license may not be renewed unless the registrant submits a statement to the effect and the board is satisfied that the licensee has maintained competency by:

- (a) the continued practice of engineering or land surveying; and
- (b) engaging in other activities that provide for the maintenance of competency if prescribed by board rule, such as continuing education, which may require up to 15 professional development hours as prescribed by board rule and is generally patterned after the model rules of the national council of examiners for engineering and surveying.

(3) Failure on the part of a licensee to renew the license biennially prior to the expiration date does not deprive the licensee of the right of renewal; however, a licensee who fails to pay the renewal fee for an additional year of the biennium is considered a new applicant and is required to submit a new application.

(4) The fee for any licensee who fails to renew the license prior to the expiration date must be increased by an amount not to exceed 50% of the renewal fee. Renewal may not be completed until all fees are paid.

(5) This section may not be interpreted to conflict with 37-1-138.

History: En. Sec. 17, Ch. 150, L. 1957; Sec. 66-2340, R.C.M. 1947; amd. Sec. 7, Ch. 282, L. 1969; amd. Sec. 222, Ch. 350, L. 1974; amd. Sec. 8, Ch. 215, L. 1975; redes. 66-2361 by Sec. 9, Ch. 366, L. 1975; R.C.M. 1947, 66-2361; amd. Sec. 6, Ch. 408, L. 1979; amd. Sec. 67, Ch. 345, L. 1981; amd. Sec. 3, Ch. 489, L. 1981; amd. Sec. 8, Ch. 390, L. 1983; amd. Sec. 14, Ch. 553, L. 1985; amd. Sec. 2, Ch. 107, L. 1995; amd. Sec. 65, Ch. 492, L. 2001; amd. Sec. 56, Ch. 271, L. 2003.

Compiler's Comments

2003 Amendment: Chapter 271 in (2) at beginning inserted "Subject to subsection (5)"; inserted (5) to provide that this section may not be interpreted to conflict with 37-1-138; and made minor changes in style. Amendment effective April 9, 2003.

Retroactive Applicability: Section 63, Ch. 271, L. 2003, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to occurrences after December 31, 2002."

37-67-316. Replacement of lost or destroyed certificate or license. A new certificate or license to replace a certificate or license revoked, lost, destroyed, or mutilated may be issued by the department, subject to the rules of the board.

History: En. 66-2365 by Sec. 13, Ch. 366, L. 1975; R.C.M. 1947, 66-2365(part); amd. Sec. 66, Ch. 492, L. 2001.

37-67-317. Deposit of moneys collected. The department shall collect all moneys under this chapter and shall deposit these moneys in the state special revenue fund for the use of the board, subject to 37-1-101(6).

History: En. Sec. 10, Ch. 150, L. 1957; Sec. 66-2333, R.C.M. 1947; amd. Sec. 123, Ch. 147, L. 1963; amd. Sec. 28, Ch. 177, L. 1965; amd. Sec. 216, Ch. 350, L. 1974; redes. 66-2354 by Sec. 3, Ch. 366, L. 1975; R.C.M. 1947, 66-2354; amd. Sec. 1, Ch. 277, L. 1983.

37-67-318. Roster of licensees to be published by department. A roster showing the names and addresses of licensed professional engineers and licensed professional land surveyors must be published by the department. Copies must be placed on file with the secretary of state and the clerk of each incorporated city and town and in the office of each county clerk and recorder within the state and furnished to each person licensed and to the public, on request, at a fee established by the board.

History: En. Sec. 12, Ch. 150, L. 1957; Sec. 66-2335, R.C.M. 1947; amd. Sec. 218, Ch. 350, L. 1974; amd. and redes. 66-2356 by Sec. 4, Ch. 366, L. 1975; amd. Sec. 2, Ch. 317, L. 1977; R.C.M. 1947, 66-2356; amd. Sec. 7, Ch. 408, L. 1979; amd. Sec. 15, Ch. 553, L. 1985; amd. Sec. 67, Ch. 492, L. 2001.

Cross-References

Public records generally, Title 2, ch. 6, part 1.

Prohibition on distribution or sale of mailing lists, 2-6-109.

37-67-319. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. 66-2368 by Sec. 16, Ch. 366, L. 1975; R.C.M. 1947, 66-2368; amd. Sec. 26, Ch. 22, L. 1979; amd. Sec. 16, Ch. 553, L. 1985.

37-67-320. Sole proprietorships, firms, partnerships, and corporations -- requirements -- exceptions. (1) A sole proprietorship, firm, partnership, or corporation:

(a) may engage in the practice of engineering in this state if the sole proprietor or any member of the firm, partnership, or corporation who is in responsible charge of engineering or land surveying work performed in this state is a professional engineer or a professional land surveyor, as appropriate;

(b) must have a professional engineer or professional land surveyor in residence who is in responsible charge of the engineering or land surveying work conducted in the office or place of business if the sole proprietorship, firm, partnership, or corporation is engaged in the practice of engineering or the practice of land surveying; and

(c) shall obtain a certificate of authorization from the board before engaging in the practice of engineering or the practice of land surveying.

(2) The provisions of subsection (1) do not apply to sole proprietorships, firms, partnerships, or corporations that are engaged in the practice of engineering or the practice of land surveying for their own benefit and do not practice or offer engineering or land surveying services to others.

History: En. Sec. 5, Ch. 553, L. 1985; amd. Sec. 12, Ch. 108, L. 1995; amd. Sec. 122, Ch. 429, L. 1995; amd. Sec. 68, Ch. 492, L. 2001.

37-67-321. Emeritus status. (1) A licensee who no longer practices engineering or land surveying may apply to the board for emeritus status.

(2) Upon receiving an application for emeritus status accompanied by the fee established by the board, the board shall issue a license of emeritus status to the applicant and record the applicant's name in the roster as an emeritus licensee, along with the date on which the licensee received emeritus status.

(3) An emeritus licensee may retain but may not use the licensee's seal and may not practice engineering or land surveying.

(4) The board shall reissue a license to an emeritus licensee who pays all application fees, meets all current requirements for licensure, and demonstrates to the board's satisfaction that for the 2 years preceding the application for licensure, the applicant has met the requirements for maintaining professional competence established under 37-67-315.

History: En. Sec. 19, Ch. 553, L. 1985; amd. Sec. 69, Ch. 492, L. 2001.

37-67-322 through 37-67-330 reserved.

37-67-331. Revocation, suspension, or refusal to renew license -- grounds -- procedure -- reinstatement. (1) The board may reprimand a licensee or revoke, suspend, or refuse to renew the license of a licensee found responsible for:

(a) fraud or deceit in obtaining a license;

(b) gross negligence, incompetency, or misconduct in the practice of engineering or land surveying as a licensed professional engineer or professional land surveyor;

(c) a felony;

(d) a violation of rules for professional conduct for professional engineers and professional land surveyors adopted by the board;

(e) failing to comply with the Corner Recordation Act if the person is a professional land surveyor.

(2) Any person may make charges of fraud, deceit, gross negligence, incompetency, or misconduct against a licensee. The charges must be made by affidavit, subscribed and sworn to by the person making them, and filed with the department. The charges must be investigated by the board. For purposes of investigation under this section, the board may require that a licensee meet with the board.

(3) The board may require a licensee to take a written or oral examination, or both, in a proceeding to reprimand the licensee or to revoke, suspend, or refuse to renew the license.

(4) If, after a hearing, five or more members of the board vote in favor of sustaining the charges, the board shall reprimand the licensee or suspend, refuse to renew, or revoke the license of the licensed professional engineer or professional land surveyor.

(5) The board, for reasons it considers sufficient, may reissue a license to a person whose license has been revoked if five or more members of the board vote in favor of the reissuance.

History: En. 66-2365 by Sec. 13, Ch. 366, L. 1975; R.C.M. 1947, 66-2365(part); amd. Sec. 8, Ch. 408, L. 1979; amd. Sec. 17, Ch. 553, L. 1985; amd. Sec. 13, Ch. 108, L. 1995; amd. Sec. 70, Ch. 492, L. 2001.

Cross-References

Oaths, Title 1, ch. 6.

Affidavits, Title 26, ch. 1, part 10.

Unfair trade practices and consumer protection, Title 30, ch. 14.

Reporting disciplinary actions against licensees, 37-1-105.

Perjury, 45-7-201.

Corner Recordation Act of Montana, Title 70, ch. 22, part 1.

37-67-332. Violations -- penalties -- enforcement. (1) (a) A person commits a criminal offense if the person knowingly:

(i) practices or offers to practice engineering or land surveying in this state without being licensed under this chapter;

(ii) presents or attempts to use the license or the seal of another person;

(iii) gives false or forged evidence to the board or department in obtaining a license;

(iv) impersonates another licensee;

(v) attempts to use an expired, revoked, or emeritus license; or

(vi) violates a provision of this chapter.

(b) A person convicted under subsection (1)(a) shall be fined an amount of not less than \$100 or more than \$500 or be incarcerated in the county jail for a period not exceeding 3 months, or both.

(2) All officers of the law of this state or one of its political subdivisions shall enforce this chapter and prosecute persons violating it. The attorney general shall act as legal adviser of the board and render legal assistance necessary in carrying out this chapter.

(3) The board may apply to the appropriate court for an injunction against a person found by the board to have practiced or attempted or offered to practice engineering or land surveying in this state without a valid license.

(4) If a person violates an injunction against practice without a valid license, the court may impose a fine in an amount not to exceed \$25,000.

History: En. Sec. 23, Ch. 150, L. 1957; Sec. 66-2346, R.C.M. 1947; amd. Sec. 225, Ch. 350, L. 1974; red. 66-2366 by Sec. 14, Ch. 366, L. 1975; R.C.M. 1947, 66-2366; amd. Sec. 18, Ch. 553, L. 1985; amd. Sec. 3, Ch. 107, L. 1995; amd. Sec. 71, Ch. 492, L. 2001.

Cross-References

Prosecutorial duties of County Attorney, 7-4-2712.

Duties of County Attorney relating to state matters, 7-4-2716.

Forgery, 45-6-325.